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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,814	01/26/2004	Dale Roush	1041-001	6879
34456 7590 01/15/2008 LARSON NEWMAN ABEL POLANSKY & WHITE, LLP 5914 WEST COURTYARD DRIVE SUITE 200 AUSTIN, TX 78730			EXAMINER HALL, ARTHUR O	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 01/15/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/764,814

Applicant(s)

ROUSH, DALE

Examiner

Arthur O. Hall

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/26/2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Response to Amendment

Examiner acknowledges applicant's amendment of claim 16 and addition of claims 27-28 in the Response dated 11/26/2007 to Non-final Office Action dated 7/24/2007. Claims 1-28 are pending in the application and subject to examination as part of this office action.

Examiner acknowledges that applicant's arguments directed to the rejection set forth under 35 U.S.C. 102(b) and 35 U.S.C. 103(a) are deemed unpersuasive in light of the evidence disclosed in the Lappington et al. (US Patent 5,734,413; hereinafter Lappington) and Libby et al. (US Patent 6,193,605; hereinafter 6,193,605; hereinafter Libby) references cited in the Non-final Office Action dated 7/24/2007, in view of applicant's arguments made in the Response dated 11/26/2007 to the Non-final Office Action dated 7/24/2007. Thus, the rejections under 35 U.S.C. 102(b) and 35 U.S.C. 103(a) are not withdrawn. Therefore, Examiner maintains the grounds of rejection under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a) as set forth below.

Examiner acknowledges applicants' amendments of the disclosure of the specification directed to Examiners objection of the specification with respect to Figure 4 not labeled in paragraph 0030 as set forth in the Non-final Office Action dated 7/24/2007, which obviate the objection to the specification. Therefore, Examiner withdraws further objection to the specification.

Examiner acknowledges that applicant's arguments directed to Examiners objection of claims 1 and 13 set forth in the Non-final Office Action dated 7/24/2007 are deemed unpersuasive, which do not obviate the objection to the claim. Therefore, Examiner maintains the grounds of objection to the claim as set forth below.

Claim Objections

Claims 1 and 13 are objected to because of the following informalities: the claims recite "A computer-implemented method" in the preamble; but, this language infers that the method is implemented solely by a computer via a computer readable medium. In which case, the claim is then directed to computer readable medium having program steps stored thereon to be implemented or carried out by the processor of a computer under the command of a program. Examiner suggests that applicant recite claims 1 and 13 as "A method having steps implemented or carried out by a processor" in order to avoid clarity issues with respect to computer readable medium. If applicant decides that the claim is not a method claim, then Examiner suggests that applicant recite the preamble of the claim as computer readable medium or other proper statutory category of invention in order that clarity of the claim is avoided. Appropriate correction is required.

Applicant argues that the recitation of "computer implemented method" in claims 1 and 13 is proper because the claims do not recite computer readable media and for reason that the PTO has misunderstood the term "media broadcast." However, Examiner submits that in order for the claims to meet the requirements of 35 U.S.C. § 101 and 35 U.S.C. § 112, the claims as a whole must be clear including a properly

recited statutory category of invention (See MPEP 2106 Patent Subject Matter Eligibility, IV. Determine Whether the Claimed Invention Complies with 35 U.S.C. § 101; See also *Diamond v. Chakrabarty*, 206 USPQ 193, 197 (1980)).

Examiner further continues to submit that the body of the claim is recited as process steps and that in light of the disclosure of the specification has interpreted these claims to be process claims (See Summary in the Specification, Appl. No. 10/764,814).

Consequently, Examiner submits that the statutory category of invention of claims 1 and 13 is interpreted to be a process regardless of applicant's definition of the term "media broadcast." Therefore, applicant's argument that the PTO misunderstood the term "media broadcast" is moot.

Therefore, Examiner still requires applicant to recite the preamble with "A method" to replace "A computer-implemented method" so as to avoid issues of clarity with respect to modifying the term "method" by the term "computer-implemented."

Claim Rejections - 35 USC § 102

Examiner maintains and incorporates herein by reference the grounds of rejection of the claims under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a) as described in the Non-final Office Action dated 7/24/2007 because the scope of the claims as amended in the Response dated 11/26/2007 is substantially the same as the scope of the claims examined in the Non-final Office Action dated 7/24/2007 and because each of the features of applicant's claimed invention as amended continues to be anticipated by and unpatentable or obvious over the prior art.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2-6, 10, 12-14, 17-18 and 27-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Lappington. Figures are described with reference characters where necessary for clarity.

Lappington substantially teaches features of the claimed invention as described in the Non-final Office Action dated 7/24/2007.

Regarding claim 27, Lappington teaches

a method of providing an event related game (column 8, lines 4-39, Lappington), the method comprises:

receiving at a computer a request for a printable game set associated with a media broadcast (column 8, line 62 to column 9, line 9, column 19, lines 47-64 and Figs. 1, 10 and 11, 32, Lappington; event data or transactions that are processor compiled from a script including game data that is configured to printed are broadcasted and received at a handheld device);

generating the printable game (column 16, lines 16-64, Lappington; a printable game set or game data is generated via processing circuitry), the printable game set including at least one game card and a unique identification number (column 15, lines 56-67, column 12, lines 17-53 and Fig. 4, 20, Lappington; an Insertion Card for each

authorized user that includes game data and a group or unit number assigned to a broadcast script that is associated with the game or episode of a series are provided via the handheld), the at least one game card including a set of elements associated with the media broadcast (column 10, lines 13-17, Lappington; all transaction data that is a cumulative list of game events or elements provided to the handheld via the Insertion card); and

providing to a user computer the printable game set in an electronic format configured for printing on paper by a user (column 9, line 54 to column 10, line 5 and column 17, line 36-51, Lappington; an object file that is compiled from a symbolic file including interactive game data is provided to a handheld computer in machine code readable by printer devices).

Regarding claim 28, Lappington teaches distributing an award based at least in part on the unique identification number (column 22, lines 33-61 and column 12, lines 17-53, Lappington; the awarding of a prize is based on a points register that is score based on game data or results that are associated with the group or unit number assigned to the broadcast script since the group or unit number is configured to combine the scores of the episode of a series of scripts or game).

Claim Rejections - 35 USC § 103

Examiner maintains and incorporates herein by reference the grounds of rejection of the claims under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a) as described in the Non-final Office Action dated 7/24/2007 because the scope of the claims as amended in the Response dated 11/26/2007 is substantially the same as the scope of the claims examined in the Non-final Office Action dated 7/24/2007 and because each

of the features of applicant's claimed invention as amended continues to be anticipated by and unpatentable or obvious over the prior art.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 7-9, 11, 15-16 and 20-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lappington in view of Libby. Figures are described with reference characters where necessary for clarity.

Response to Arguments

Applicant's arguments filed in the Response dated 11/26/2007 with respect to Examiners' rejection under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a) have been considered fully and are unpersuasive in light of the evidence substantially disclosed in the Lappington and Libby references, and in view of applicant's arguments thereof.

Regarding applicant's arguments concerning claims 1-28 rejected as anticipated under 35 U.S.C. § 102(b) or unpatentable or obvious under 35 U.S.C. § 103(a):

Applicant argues substantially that an insertion card disclosed by Lappington is not a game card of a printable game set because the insertion card includes plural circuitries, and thus cannot be provided in electronic format for printing by a user.

Examiner submits that applicant has a printable game set in electronic form or a game

set provided in electronic form that is configured for or adapted to be printed (paragraphs 0007-0008, Appl. No. 10/764,814). Examiner further submits that claim language reciting “printable” and “configured for” cause the Examiner to interpret a printable game set more broadly since the game set is merely adapted for printing or to be printed from electronic format (See MPEP 2106 Patent Subject Matter Eligibility, II. C.; See also *In re Hiniker Co.*, 47 USPQ2d 1523, 1529 (Fed. Cir. 1998) and *In re Morris*, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997)). Consequently, Examiner continues to submit that an insertion card, as disclosed by Lappington, that includes a symbolic file based on event data or a game set that is compiled via software to create an object file that is configured for or adapted for printing by a user is a printable game set in electronic format (column 9, line 54 to column 10, line 17 and Fig. 4, 20, Lappington).

Applicant argues substantially that Lappington does not teach a set of trade tickets that identify a game event. Examiner submits that Lappington discloses that registers include data that corresponds to each user’s trade ticket information for the game and that these registers are provided via a handheld in connection with the symbolic file or game set on the insertion card (column 22, lines 13-32, Lappington).

Applicant argues that Libby does not disclose printing a game set that includes a plurality of game cards and a set of trade tickets. Examiner submits that Lappington discloses the printable game set as described above. Examiner further submits that Libby discloses printing of data received or transacted in connection with game play, the data of which is game or event data (column 6, lines 17-27, column 7, lines 1-19 and Fig. 3, 66, Libby).

Applicant argues that Libby does not disclose distributing one game card of plural game cards and a subset of trade tickets to one of the plural players. Examiner submits that data received or transacted in connection with game play is a game card and trade tickets that are provided to a player after player selection data, player ID information and time stamp data are imprinted on the receipt since the player uses this receipt to obtain winnings that result from game play (column 7, lines 13-19, Libby).

Consequently, applicant's arguments have been deemed to be unpersuasive in light of the evidence substantially disclosed in the Lappington and Libby references and in light of applicant's arguments thereof. Hence, Examiner maintains the grounds of rejection of the claims under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a) as described in the Non-final Office Action dated 7/24/2007 because each of the features of applicant's claimed invention continues to be anticipated by and unpatentable or obvious over the prior art.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A US-7,246,066 B2, Black.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur O. Hall whose telephone number is (571) 270-1814. The examiner can normally be reached on Mon - Fri, 8:00am - 5:00 pm, Alt Fri, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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AH

1/10/2007


Robert E. Pezzuto
Supervisory Patent Examiner